

**Remarks**

The various parts of the Office Action (and other matters, if any) are discussed below under appropriate headings.

Favorable reconsideration of this patent application in view of the following remarks respectfully is requested.

The application includes claims 1-16 and 20-23. None of the claims have been amended. New claims 21-23 are newly added. The subject matter of these new claims is described, for example, at page 7, lines 5-18 and elsewhere in the Specification.

If the adding of new claims 21-23 precludes entering of this Reply after final rejection, then it is requested that this Reply be entered and new claims 21-23 be considered not included or canceled. The undersigned left a voice message with Examiner Kumar to discuss claims 21-23, but that message has not yet been returned; and in the interest of filing this Reply within two (2) months of the date of the Final Rejection, this comment is made here. The undersigned still wishes to discuss claims 21-23 with Examiner Kumar, and a request for at least a telephone interview is made at the end of this Reply.

***Claim Rejection - 35 USC § 103***

Withdrawal of the rejection of claims 1-16, and 20 under 35 U.S.C. 103(a) as being unpatentable over Wallace et al. (U.S. Patent No. 6,621,483) in view of Applicant's Admitted Prior Art (AAPA), and further in view of Bower (US-PGPUB 2002/0072915), respectfully is requested for the reasons previously asserted of record and for the additional reasons presented below.

At least for the reasons below the Examiner has not made out a case for prima facie obviousness under 35 U.S.C. 103(a) of the subject matter that is particularly pointed out and distinctly claimed in the rejected claims.

Initially referring to Bower at page 4, paragraph 0043, Bower describes a separate button and a double click. The present invention does not require a separate

button and is not a classic double click. In contrast to Bower, the method and apparatus of present invention, as is set forth in the claims, rely on removing a finger from the movable physical member and re-applying the finger to the movable physical member within a set time limit. There is no need for a double click action or of a separate button.

In Bower the triggering event for starting a timer in order to detect whether a double-click operation has been performed is always a downward movement of the finger on a button. In stark contrast, the triggering event in order to detect whether an operation according to claim 1 of the present application has been performed is an upward movement of the finger corresponding to removing the finger from the movable physical member. New claims 21-23 point out this distinction. As is pointed out in those claims, **the triggering event for starting the timer is an upward movement** (removing the finger from the movable physical member).

Applicant's Admitted Prior Art (AAPA) mentions that a movable joystick can be used to navigate in a virtual three-dimensional environment. But, AAPA does not disclose navigating by solely performing the two steps within a set time limit (removing the finger from and re-applying the finger to a movable physical member), nor does AAPA disclose navigation by removing a finger and re-application of the finger to a movable physical member (claims 3 and 20).

Wallace discloses a device in which there is a fixed member. In an embodiment of Wallace a finger is slid with respect to that fixed member to move a cursor.

Wallace does not disclose a movable physical member. The Examiner explicitly states on page 2, last line, to page 3, first line, that Wallace discloses a movable physical member. This is not in line with the disclosure of Wallace. The references to Wallace at the abstract and at column 5, lines 6-33, do not provide any disclosure of a movable physical member.

A person of ordinary skill in the art would understand that the physical member

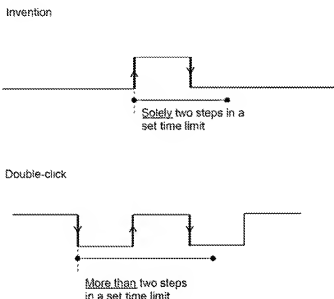
disclosed in Wallace, which is the transparent stud 3 illustrated on Fig. 1, is not movable and must actually not move in order for the process of Wallace to work properly. The detection of movement in Wallace is based on the precise tracking of the finger's image (col. 4, lines 44-45, col. 5, lines 9-14). It involves lens 8 (col. 2, lines 54-55, col. 5, lines 9-11), production of incremental signals (col. 3, lines 11-14), a precise focus to get a clear image of the finger (col. 3, lines 5-6, col. 5, lines 60-64), etc. All in all, any movement of the physical member disclosed in Wallace, i.e. the transparent stud 3, may cause the image detected by the motion detector 9 to be corrupted due to a loss of focus. The importance of getting precise, focused images is explained in Wallace, col. 6, lines 13-15. Starting from Wallace, a skilled person would not have considered moving the stud 3.

This shows that Wallace and Bower are not compatible. Combining Wallace and Bower amounts to using the invention as a template through a hindsight reconstruction of the claims, which is not admissible.

If Wallace and Bower had nevertheless been combined, a button (separate from the stud 3) would be added to the system of Wallace, and, on this new button, single- and double-click could then be performed. This does not lead to the invention. The invention provides a single movable physical member for intuitively navigating through a hierarchically-organized menu.

[Continued on following page.]

The differences between the invention and the double-click operation (mentioned in Bower) may further, and possibly better, be explained with reference to the following diagrams:



The upper diagram (labelled "*Invention*") shows the movement of a finger in the operation defined in claim 1 of the present application. In contrast, the second, lower diagram (labelled "*Double-click*") illustrates the movement of a finger while performing a double-click.

In the invention, solely two steps need to be performed within a set time limit for the operation to be detected.

In a double-click operation, more than two steps, i.e. at least three steps, need to be performed within a set time limit for the double-click operation to be detected. Consequently, a double-click does not anticipate the operation defined in claim 1.

The following difference between the claimed invention and the combination of references additionally exists. In the invention, the triggering event for starting a timer in order to detect whether the backward operation (removing the finger, and then re-applying it) has been performed is **an upward movement** of the finger, whereas, in a double-click, the triggering event is **a downward movement** of the finger. This is

explained in the description notably on page 4, lines 5 – 6, page 7, lines 8 – 9, page 8, lines 24 – 25, page 9, lines 11 – 12 and 28 – 29, and page 10, lines 10 and 11.

This difference and the intuitive character of the upward movement in the invention, e.g., as explained below, demonstrate that the invention is non-obvious over Wallace and Bower, and over the double-click operation, which is radically different from the invention.

The new method of inputting a user command as defined in claim 1, for example, provides an surprisingly intuitive way (i.e., easier and more logical for the human's mind) to navigate within a hierarchically-organized menu system since moving one's finger backwards (backwards from the physical member, which is the upward movement of the finger (claim 21)) causes a corresponding backward movement within the hierarchically-organized menu (page 5, lines 11-15, page 7, line 13-17).

New claims 21-23 point out that the action of the finger to begin the set time limit or to trigger the start of a timer counting is an upward movement of the finger away from the movable physical member. Bower discloses a clicking of a button or a double click; not the same as the claim language. AAPA mentions a double click or a pressing of a joystick. Wallace does not have a movable physical member and, thus, does not move anything relative to a movable physical member.

In view of the foregoing, the subject matter of claims 1-16 and 20-23 would not be obvious to a person having ordinary skill in the art in accordance with the requirements of 35 U.S.C. 103(a).

Accordingly, it is submitted that all of claims 1-16 and 20-23 are allowable over the prior art, and an indication thereof earnestly is requested.

### ***Conclusion***

In view of the foregoing, it is believed that this application is in condition for

allowance, and request is made for timely issuance of a Notice of Allowance.

If the foregoing does not result in allowance of this application, the Examiner is respectfully requested to telephone applicant's attorney to arrange for an interview.

Also, if the Examiner feels that a telephone interview would be helpful to expedite favorable consideration of this application, she is respectfully requested to telephone Applicants' Attorney at the number below.

Respectfully submitted,

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